

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re : Chapter 11
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Gawker Media LLC, *et al.*,¹ : Case No. 16-11700 (SMB)
:
Debtors. : (Jointly Administered)
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**STIPULATION AND ORDER BETWEEN THE PLAN ADMINISTRATOR, CHARLES
JOHNSON, AND GOT NEWS, LLC, REFERRING THE
CLAIMS OF GOT NEWS LLC AND CHARLES JOHNSON TO MEDIATION**

The Plan Administrator for Gawker Media LLC (“Gawker Media”), Gawker Media Group, Inc. (“GMGI”), and Gawker Hungary Kft. (“Gawker Hungary” and together with Gawker Media and GMGI, the “Debtors”), in the above-referenced jointly administered bankruptcy cases (the “Bankruptcy Cases”) and Got News LLC (“GotNews”) and Charles Johnson (“Johnson”, and together with GotNews, the “Creditors”; and together with the Debtors, the “Parties”) by and through their respective counsel, hereby enter into this stipulation (the “Stipulation and Order”) for an agreed order regarding the GotNews/Johnson Claims (as defined below).

Recitals

WHEREAS, prior to the petition dates in the Bankruptcy Cases, Creditors commenced a lawsuit captioned *Johnson v. Gawker Media LLC* [Superior Court of California, County of Fresno, Case No. 15 CECG 3734] (the “California Case”) against Debtors and other non-Debtor parties in the Superior Court of California, Fresno County (the “California State Court”);

¹ The last four digits of the taxpayer identification number of the debtors are: Gawker Media LLC (0492); Gawker Media Group, Inc. (3231); and Gawker Hungary Kft. (f/k/a Kinja Kft.) (5056). The Debtors’ mailing addresses are c/o The Boathouse Group, LLC, 44 Lynden Street, Rye, NY 10580, Attn: William D. Holden.

WHEREAS, based on the same allegations in the California Case, GotNews filed Proofs of Claim Nos. 53, 202 and 298 (the “GotNews Claims”), and Johnson filed Proofs of Claim Nos. 54, 223 and 246 (the “Johnson Claims”, and together with the GotNews Claims, the “GotNews/Johnson Claims”), against the Debtors in the Bankruptcy Cases;

WHEREAS, on October 31, 2016, the Debtors filed the *Debtors’ First Omnibus Objection to Proofs of Claim filed by Charles Johnson, and Motion to Apply Fed. R. Civ. P. 12(b)(6) and 12(c) Pursuant to Bankruptcy Rules 9014 and 7012* [Docket No. 396] (the “Johnson Claims Objection”), regarding the Johnson Claims;

WHEREAS, on October 31, 2016, the Debtors filed the *Debtors’ First Omnibus Objection to Proofs of Claim filed by GotNews LLC, and Motion to Apply Fed. R. Civ. P. 12(b)(6) and 12(c) Pursuant to Bankruptcy Rules 9014 and 7012* [Docket No. 397] (the “GotNews Claims Objection”, and together with the Johnson Claims Objection, the “Claims Objections”), regarding the GotNews Claims;

WHEREAS, on November 16, 2016, the Creditors filed the *Opposition to Omnibus Objections to Proofs of Claim as to Charles C. Johnson and Got News LLC* [Docket No. 452] (the “GotNews/Johnson Response”);

WHEREAS, on November 29, 2016, the Debtors filed their *Reply in Support of Omnibus Objections to Proofs of Claim of Got News LLC and Charles C. Johnson* [Docket No. 501] (the “Debtors’ Reply”);

WHEREAS, the Court held an initial hearing on the Claims Objections on December 1, 2016, and ordered that the parties meet and confer and propose a scheduling order for further proceedings in the contested matters commenced by the Claims Objections;

WHEREAS, the Creditors objected to confirmation of the Debtors' *Amended Joint Chapter 11 Plan of Liquidation for Gawker Media Group, Inc., Gawker Media LLC, and Gawker Hungary Kft.* [Docket No. 576] (the "Plan"), such objection was settled as set forth in the *Findings of Fact, Conclusions of Law, and Order Confirming Amended Joint Chapter 11 Plan of Liquidation for Gawker Media Group, Inc., Gawker Media LLC, and Gawker Hungary Kft.* [Docket No. 638] (the "Confirmation Order"), and the parties agreed that the Claimants' aggregate recovery, if any, on the remaining GotNews/Johnson Claims could not exceed \$1.5 million, for which the Debtors established a reserve, Confirmation Order ¶ 82;

WHEREAS, on January 24, 2017, the Court entered the *Scheduling Order Regarding Debtors' Objections to Proofs of Claim of Got News LLC and Charles Johnson* [Docket No. 703] (the "Stage One Scheduling Order"), establishing a briefing schedule to determine the issues of (i) whether GotNews/Johnson Claims are "personal injury tort" claims within the meaning of 28 U.S.C. § 157(b)(2)(B) and (ii) whether the California anti-SLAPP statute, Cal. Civ. Proc. Code § 425.16 applies to the Claims Objections, and if so in what manner.

WHEREAS, on January 25, 2017, Debtors filed the *Debtor's Supplemental Brief in Further Support of its Omnibus Objections to Claims of Charles C. Johnson and Got News LLC* [Docket No. 707].

WHEREAS on February 8, 2017, the Creditors filed the *Response to Debtors' Supplemental Brief in Further Support of its Omnibus Objections to Claims of Charles C. Johnson and Got News LLC* [Docket No. 745].

WHEREAS on February 10, 2017, Gawker Media filed the *Debtor Gawker Media's Reply in Further Support of its Omnibus Objections to Claims of Charles C. Johnson and Got News LLC* [Docket No. 755].

WHEREAS, on August 21, 2017 the Court issued its *Memorandum Decision Regarding Stage One Issues* [Docket No. 979], determining that (i) the GotNews/Johnson Claims are not “personal injury tort” claims and (ii) that the special motion procedure embodied in the California anti-SLAPP statute is not applicable to the Claims Objections. The Court reserved the issue of whether the fee-shifting provisions of the California anti-SLAPP are severable and applicable to the Claims Objections.

WHEREAS, the Stage One Scheduling Order provided that “[p]roceedings after decision of the aforementioned matters shall be subject to further order or this Court, on agreement or application of the Parties.”

WHEREAS, on April 20, 2018, Creditors served upon Gawker Media:

- (1) Creditors Charles C. Johnson and Got News, LLC's First Set of Requests for Admission to Debtor Gawker Media, LLC;
- (2) Creditors Charles C. Johnson and Got News, LLC's First Set of Requests for Production of Documents to Debtor Gawker Media, LLC; and,
- (3) Creditors Charles C. Johnson and Got News, LLC's First Set of Interrogatories to Debtor Gawker Media, LLC.

WHEREAS, Debtors desire a stay of discovery pending resolution of the Claims Objections, and desires a protective order based on their certain objections to discovery being taken under the Scheduling Order (the “Discovery Dispute”), to which stay Creditors do not assent and to which protective order and objections Creditors oppose.

WHEREAS, the Parties have conferred in good faith, pursuant to Local Rule 7007-1(a), to resolve the Discovery Dispute, but have been unable to reach an agreement.

WHEREAS, the Parties further desire to mediate the potential resolution of the GotNews/Johnson Claims.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, AND SO ORDERED THAT:

1. Effective May 10, 2018, the GotNews/Johnson Claims and the Claims Objections, including without limitations all discovery requests and deadlines in connection therewith, are stayed in their entirety until such date as set forth below (the “GotNews/Johnson Claims Stay”).

2. Pursuant to Local Rule 9019-1 and Section 1.2 of the Procedures Governing Mediation of Matters and the Use of Early Neutral Evaluation and Mediation/Voluntary Arbitration in Bankruptcy Cases and Adversary Proceedings (“Mediation Procedures”), the GotNews/Johnson Claims shall be and are hereby referred to mediation.

3. Pursuant to Section 2.2(A) of the Mediation Procedures, the Court shall appoint a mediator and alternate mediator.

4. Pursuant to Section 3.1 of the Mediation Procedures, the Parties shall schedule the mediation conference for a single day, to be held in New York City, New York. The parties shall endeavor to schedule the one day mediation between June 11, 2018 and June 22, 2018, inclusive.

5. For purposes of this Stipulation and Order, the mediation shall be deemed concluded upon (a) the Court’s approval of a timely-filed stipulated order or judgment or motion, fully resolving the Johnson/GotNews Claims and the Claims Objections, pursuant to Section 3.4 of the Mediation Procedures; or (b) the filing of a final report by the Mediator stating that the mediation ended in an impasse, in whole or in part, pursuant to Section 3.4 of the Mediation Procedures.

6. In the event mediation is unsuccessful and therefore concludes pursuant to Paragraph 5(b) above:

- a. The GotNews/Johnson Claims Stay shall continue for fourteen days following the conclusion of mediation (i.e., the date the mediator's report is filed).
- b. If the Plan Administrator moves for a stay and/or protective order regarding discovery and/or the discovery requests, or files a similar motion, however fashioned (the "Stay Motion"), during the fourteen day period following the conclusion of the mediation, the GotNews/Johnson Claims Stay shall remain in effect and continue through the resolution of the Stay Motion by the Plan Administrator.
- c. The Parties shall confer regarding the schedule to resolve the GotNews/Johnson Claims and the Claims Objections, and within 21 days following the conclusion of the mediation pursuant to Paragraph 5(b) above, shall jointly submit their proposed schedule(s), noting any disagreement on such submission, to the Court.

7. This Court shall retain jurisdiction to hear and determine all matters arising from or related to this Stipulation and Order.

Dated: May 10, 2018

/s/ Gregg M. Galardi
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Counsel for Creditors

SO ORDERED:

Dated: May 29, 2018

/s/ STUART M. BERNSTEIN

**THE HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE**